

Atty. Docket No. ASAHI-3-PC-11

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Minoru SETO et al.

Confirmation No. 6829

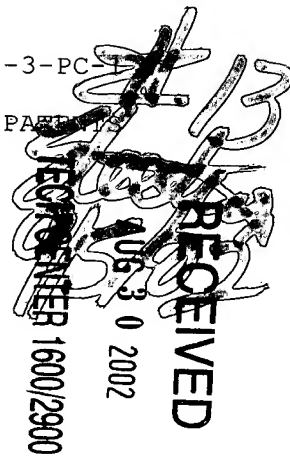
Serial No. 09/806,382

GROUP 1653

Filed March 29, 2001

Examiner Samuel W. Liu

METHOD OF CONTROLLING SECRETION
OF GRANULES



RESPONSE

Commissioner for Patents

Washington, D.C. 20231

Sir:

This replies to the Official Action of June 25, 2002.

Responsive to the requirement for restriction, Applicants elect Group II, claims 4-10 and 13-16, with traverse.

It is believed that the requirement is improper and should not be repeated, for the following reasons:

1. Groups I and II contain linking claims. Claim 3, in Group I, is indivisible from claim 7, in Group II, because the method of claim 3 cannot be practiced without the substance of claim 7 and the method of claim 7 cannot be practiced without the substance of claim 3. Thus, there is not even one-way distinctness between claims 3 and 7, and hence between their respective Groups I and II, much less two-way distinctness.

2. Claim 11, comprising Group III, is indivisible from Group II, because claim 11 depends from claim 10, belonging to Group II. Claim 10 is drawn to a method for detecting a substance (as recited in its base claim 4) wherein the method of detection is a screening method. Claim 11, on the other hand, requires the practice

of method claim 10. In addition, claim 11 recites a method of obtaining a substance. By contrast, claim 4, (the basis for claim 10) recites a method of detecting a substance. Of course, once the substance is detected, it is in that sense obtained, with the result that the method of obtaining, of claim 11, is not patentably distinct from the method of detecting, as in claim 10 based on claim 4. Therefore, again, there is not even one-way distinctness, in a patentably distinct sense, between claims 10 and 11, much less two-way distinctness.

3. Group III being invisible from Group II, for the reasons given immediately above, and Group II being indivisible from Group I, for the reasons first given, it follows that Group III is likewise indivisible from Group I.

4. Separate classification is no evidence of the propriety of a requirement for restriction. Classification is solely for the convenience of the Patent Office and the searching public, and cannot diminish an Applicant's rights in any way.

Accordingly, an action on the merits of all of the claims is respectfully requested.

Respectfully submitted,

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By



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